

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE-----X
ISAIAH D. AKEEM, as the Parent and Natural
Guardian of I.A.,

Plaintiff,

-against-

THE NEWBURGH ENLARGED CITY SCHOOL
DISTRICT, ROBERT WALLACE, NORMA WEST,
and MICHAEL McLYMORE,Defendants.
-----X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint of the Plaintiff, copies of which are served upon you and to serve copies of your Answer on the undersigned attorneys for the Plaintiff within 20 days after the service of this Summons and Complaint, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to answer the Complaint of the Plaintiff, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: September 30, 2019
Wappingers Falls, NY
THOMAS R. DAVIS, ESQ.
STENGER, ROBERTS, DAVIS & DIAMOND, LLP
Attorneys for Plaintiff
1136 Route 9
Wappingers Falls, NY 12590
(845) 298-2000
tdavis@srddlaw.com

TO: NEWBURGH ENLARGED CITY SCHOOL DISTRICT
c/o District Clerk - Matthew McCoy
124 Grand St.
Newburgh, NY 12550

Michael McLymore
124 Grand St.
Newburgh, NY 12550

Robert Wallace

Norma West

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
ISAIAH D. AKEEM, as the Parent and Natural Guardian of
I.A.,

Plaintiff,

VERIFIED COMPLAINT

-against-

THE NEWBURGH ENLARGED CITY SCHOOL
DISTRICT, ROBERT WALLACE, NORMA WEST,
and MICHAEL McLYMORE,

DefendantS.
-----X

The Plaintiff, ISAIAH D. AKEEM, as Parent and Natural Guardian of I.A., by his attorneys, STENGER, ROBERTS, DAVIS & DIAMOND, LLP, as and for his Verified Complaint, respectfully shows to this Court and alleges as follows:

PARTIES

1. ISAIAH D. AKEEM is the parent and natural guardian of I.A., a twelve-year-old student of the Newburgh Enlarged City School District.
2. At all times hereinafter mentioned I.A., and his Parent and Natural Guardian, ISAIAH D. AKEEM, resided and still reside at 355 Liberty Street, Apartment 1A, City of Newburgh, County of Orange and State of New York.
3. Upon information and belief, at all times hereinafter mentioned, the Defendant, NEWBURGH ENLARGED CITY SCHOOL DISTRICT ("NECSD"), was and is a municipal corporation incorporated under and by virtue of the laws of the State of New York, with offices located at 124 Grand Street, City of Newburgh, County of Orange and State of New York.

4. Defendant MICHAEL McLYMORE ("McLymore"), was and is the Assistant Superintendent of Human Resources. All actions of McLymore alleged herein were done within the course and scope of his employment with NECSD.
5. Defendant NORMA WEST ("West"), was a vehicle monitor employed by NECSD. All actions of West alleged herein were done within the course and scope of her employment with NECSD.
6. Defendant ROBERT WALLACE ("Wallace"), was a vehicle driver employed by NECSD. All actions of Wallace alleged herein were done within the course and scope of his employment with NECSD.

FACTS

7. On July 1, 2019, and continuing through and including July 22, 2019, I.A. was a passenger in a vehicle operated by Wallace, an employee of the NECSD.
8. On July 1, 2019, and continuing through and including July 22, 2019, Wallace, an employee of the NECSD, operated the aforesaid vehicle at the directive of the registered owner; the NECSD.
9. On July 1, 2019, and continuing through and including July 22, 2019, West, an employee of the NECSD, was assigned to I.A.'s vehicle as a vehicle monitor, with the formal title "Bus (Mini-Van) Monitor."
10. Both Wallace and West were charged with the care of students on the vehicle they were assigned to.
11. Both Wallace and West were hired, trained and retained by McLymore.

12. IK was raped on the aforesaid school district vehicle by Melanie M. Murphy, an eighteen-year-old student, while travelling between I.A.'s home and Kaplan Career Academy.

13. The incidents occurred on multiple occasions beginning on July 1, 2019 and continued to occur on each day school was in session through and including July 22, 2019.

**FIRST CAUSE OF ACTION AGAINST NECSD, WEST AND WALLACE
RECKLESS AND NEGLIGENT FAILURE TO SUPERVISE STUDENTS**

14. Plaintiff incorporates and re-allege by reference all proceeding paragraphs as if they were fully set forth herein.

15. Defendants West and Wallace had a duty to adequately supervise its students and ensure their safety.

16. Defendants West and Wallace had a duty to act *in loco parentis* for I.A. while I.A. was in the school district's custody.

17. Defendants West and Wallace failed to adequately and properly supervise and protect I.A. as well as its other students.

18. Defendants West and Wallace failed to act *in loco parentis* for I.A. while I.A. was in Defendant's custody.

19. As a result of defendants West and Wallace's negligence I.A. was raped on the NECSD's vehicle and was caused to sustain severe physical, emotional and mental injuries.

20. The physical, mental and emotional injuries sustained by I.A. caused past and future pain and suffering for which I.A. is entitled to damages in an amount to be determined by a trier of fact and in excess of the jurisdiction of any lower court.

21. As a result of the foregoing, I.A. has sustained special damages from the injuries sustained in an amount to be determined by a trier of fact and in excess of the jurisdiction of any lower court.
22. The aforescribed injuries of I.A. was due solely to the carelessness, recklessness and negligence of defendants West, Wallace and the NECSD, without any fault or wrongdoing on the part of I.A. contributing thereto.
23. Defendant is vicariously liable for the torts of its employees pursuant to the doctrine of *respondeat superior*.
24. Plaintiff brings this action individually and behalf of his minor son, I.A.

**SECOND CAUSE OF ACTION AGAINST DEFENDANTS NECSD AND
McLYMORE NEGLIGENT TRAINING AND SUPERVISION OF STAFF**

25. Plaintiff incorporates and re-allege by reference all proceeding paragraphs as if they were fully set forth herein.
26. NECSD and McLymore had a duty to adequately train employees, especially those tasked with supervising students, so that they were capable of complying with their legal duties.
27. NECSD and McLymore negligently and/or recklessly failed to ensure that defendants West and Wallace were trained in their duties in such a manner that they could ensure student safety.
28. NECSD and McLymore negligently and/or recklessly failed to direct its staff not to wear headphones or use electronic devices while supervising students.
29. The physical, mental and emotional injuries sustained by I.A. caused past and future pain and suffering for which I.A. is entitled to damages in an amount to be determined by a trier of fact and in excess of the jurisdiction of any lower court.

30. As a result of the foregoing, I.A. has sustained special damages from the injuries sustained in an amount to be determined by a trier of fact and in excess of the jurisdiction of any lower court.
31. The aforescribed injuries of I.A. was due solely to the carelessness, recklessness and negligence of the defendants NECSD and McLymore, without any fault or wrongdoing on the part of I.A. contributing thereto.
32. Defendant is vicariously liable for the torts of its employees pursuant to the doctrine of *respondeat superior*.
33. Plaintiff brings this action individually and behalf of his minor son, I.A.

**THIRD CAUSE OF ACTION AGAINST DEFENDANTS NECSD AND McLYMORE
NEGLIGENT HIRING AND RETENTION OF STAFF**

34. Plaintiff incorporates and re-allege by reference all proceeding paragraphs as if they were fully set forth herein.
35. NECSD and McLymore had a duty to adequately hire and retain appropriate staff, especially those tasked with supervising students, so that they were capable of complying with their legal duties.
36. NECSD and McLymore negligently and/or recklessly failed to ensure that the staff they hired and retained, specifically; defendants West and Wallace, were capable of performing their duties in such a manner that they could ensure student safety.
37. The physical, mental and emotional injuries sustained by I.A. caused past and future pain and suffering for which I.A. is entitled to damages in an amount to be determined by a trier of fact and in excess of the jurisdiction of any lower court.

38. The aforescribed injuries of I.A. was due solely to the carelessness, recklessness and negligence of the defendants NECSD and McLymore without any fault or wrongdoing on the part of I.A. contributing thereto.

39. As a result of the foregoing, I.A. has sustained special damages from the injuries sustained in an amount to be determined by a trier of fact and in excess of the jurisdiction of any lower court.

40. Defendant is vicariously liable for the torts of its employees pursuant to the doctrine of *respondeat superior*.

41. Plaintiff brings this action individually and behalf of his minor son, I.A.

FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

42. Plaintiffs incorporate and re-allege by reference all proceeding paragraphs as if they were fully set forth herein.

43. Upon information and belief, at all times hereinafter mentioned, the Plaintiff, ISALAH D. AKEEM, is and was the father and natural guardian of the Infant Plaintiff and is responsible for his care and welfare. By reason of the aforesaid accident, the Plaintiff, ISALAH D. AKEEM, has been deprived of the comfort, service, companionship and society of the Infant Plaintiff.

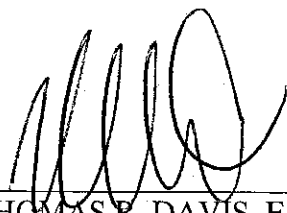
44. By reason of the foregoing negligence of the Defendants, the Plaintiff, ISALAH D. AKEEM, has expended and will be required to expend monies for medical treatment for the Infant Plaintiff.

45. By reason of the foregoing, the Plaintiff, ISALAH D. AKEEM, has been damaged in a sum that exceeds the jurisdictional limitation of all lower Courts.

46. ISALAH D. AKEEM suffered emotional harm in that he witnessed his son suffer emotionally as he tried to cope with the sexual abuse he had endured, developed maladaptive behavior, regress socially and academically, and grapple with anxiety and depression.

WHEREFORE, Plaintiff, ISALAH D. AKEEM, as Parent and Natural Guardian of I.A., demands judgment against the Defendant, NEWBURGH ENLARGED CITY SCHOOL DISTRICT, ROBERT WALLACE, NORMA WEST and MICHAEL McLYMORE, for damages in a sum which exceeds the jurisdictional limitations of all lower Courts of the State of New York, together with the costs and disbursements of this action, and for such other and further relief as to this Court may seem just and proper.

Dated: September 30, 2019
Wappingers Falls, NY



THOMAS R. DAVIS, ESQ.
STENGER, ROBERTS, DAVIS
& DIAMOND, LLP
Attorneys for Plaintiff
1136 Route 9
Wappingers Falls, NY 12590
845-298-2000
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ATTORNEY VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF DUTCHESS)

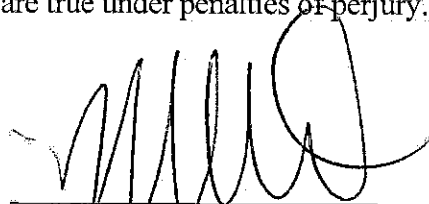
I, the undersigned, am an attorney admitted to practice in the Courts of the New York State, and say that:

I am the attorney of record, for the plaintiff, ISALAH D. AKEEM, as the Parent and Natural Guardian of I.A. I have read the annexed VERIFIED COMPLAINT, know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based on books and records in my office.

The reason I make this affirmation instead of the Plaintiff is because Plaintiff does not reside in the County where your affirmant has an office.

I affirm that the foregoing statements are true under penalties of perjury.

Dated: September 30, 2019



THOMAS R. DAVIS, ESQ.